

BOARD OF COUNTY COMMISSIONERS' MEETING

Tuesday, November 29, 1988

Present: Commissioner Carl M. Loffler, Jr., President
Commissioner W. Edward Bailey
Commissioner Robert T. Jarboe
Commissioner John G. Lancaster
Edward V. Cox, County Administrator
Judith A. Spalding, Recording Secretary

(Commissioner Rodney Thompson was not present.)

The meeting was called to order at 9:05 a.m.

APPROVAL OF MINUTES

Commissioner Bailey, moved, seconded by Commissioner Lancaster, to approve the minutes of the Commissioners' meeting of Tuesday, November 22, 1988. Motion carried.

APPROVAL OF BILLS

Commissioner Bailey moved, seconded by Commissioner Jarboe, to approve payment of the bills as presented. Motion carried.

COUNTY ADMINISTRATOR ITEMS

Present: Edward V. Cox, County Administrator

1) BOARDS, COMMITTEES, COMMISSIONS
APPROVAL OF BY-LAWS

The County Administrator presented the by-laws for the Plumbing Board, Commission for Women, Commission on Aging, and S.M.I.L.E., which are now prepared for the Commissioners' approval.

After discussion Commissioner Lancaster moved, seconded by Commissioner Jarboe, to approve the by-laws for the Plumbing Board and the Commission for Women. Motion carried.

Later in the meeting after corrections were made, Commissioner Jarboe moved, seconded by Commissioner Bailey, to approve the by-laws for Commission on Aging. Motion carried.

Commissioner Lancaster moved, seconded by Commissioner Bailey, to approve the by-laws for S.M.I.L.E. Motion carried.

2) BUDGET AMENDMENT NO. 89-25
DEPARTMENT OF PUBLIC WORKS

The County Administrator presented the referenced budget amendment recommended for approval by the Director of Finance with justification as indicated: To transfer funds to purchase office equipment and supplies for scale station building at St. Andrews Landfill.

Commissioner Bailey moved, seconded by Commissioner Lancaster, to approve and authorize Commissioner Loffler to sign the Budget Amendment as presented. Motion carried.

3) JOINT USE OF SCHOOL FACILITIES

Concerning conflicts arising in the use of school facilities, the County Administrator presented correspondence addressed to the Board of Education suggesting the formation of a committee to resolve case-by-case conflicts and to suggest appropriate policy statements. In that the Board of Education holds title to the property, it would be appropriate for them to make the appointments.

Commissioner Lancaster moved, seconded by Commissioner Bailey, to sign and forward the letter as presented. Motion carried.

4) WICOMICO-ZEKIAH SCENIC RIVER LOCAL ADVISORY BOARD

Commissioner Bailey moved, seconded by Commissioner Lancaster, to forward correspondence to Dr. Torrey Brown, Scenic Rivers Review Board, recommending the appointment of Wicomico-Zekiah Scenic River Local Advisory Board. Motion carried.

5) EASEMENT AGREEMENT
LEONARDTOWN CENTRE

The County Administrator presented an Easement Agreement by and between Board of County Commissioners of St. Mary's County and Leonardtown Centre Joint Venture conveying to Leonardtown Centre Joint Venture a perpetual easement and right-of-way for installation of a community water system on property located in the Third Election District.

Commissioner Lancaster moved, seconded by Commissioner Jarboe, to authorize Commissioner Loffler to sign the Easement Agreement as presented. Motion carried.

6) ASSOCIATION FOR RETARDED CITIZENS
REQUEST FOR UNCLAIMED BICYCLES

The County Administrator presented correspondence dated November 21 requesting donation of the unclaimed bicycles from the Sheriff's Department for use by the clients at the ARC's group homes.

Commissioner Bailey moved, seconded by Commissioner Lancaster, to donate unclaimed bicycles as requested by the ARC. Motion carried.

7) RESOURCE CONSERVATION AND DEVELOPMENT BOARD
RETIREMENT BENEFITS - ADMINISTRATIVE SECRETARY

The County Administrator presented correspondence dated November 21 from the Resource Conservation and Development Board requesting funds in the amount of \$175 from each county to allow the Administrative Secretary to enter into the Charles County Retirement Program as of December 1, 1988.

Commissioner Jarboe moved, seconded by Commissioner Bailey, to approve the expenditure of \$175 as requested by the RC&D Board. Motion carried.

BALTIMORE GAS AND ELECTRIC TRAINING UPDATE

Present: Tom Forgette, Supervisor of Emergency Planning, BG&E
Greg Rudiger, Emergency Planning Analyst, BG&E
John C. Smith, Public Affairs, BG&E
Tom Oliver, Director, Emergency Operations Center

The referenced individuals appeared before the Commissioners to present Baltimore Gas and Electric's emergency planning update and to inform the Commissioners of their involvement.

Mr. Rudiger explained the purpose of the plan, specifically the radiological plan, is to protect the public. He further explained the planning standards set forth by the State that BG&E must meet, which include accident assessment and communication.

The Commissioners thanked the BG&E representatives for the presentation and expressed cooperation.

8) WAIVER OF PERMIT FEE
ST. MARK U.A.M.E. CHURCH

The County Administrator presented a request from St. Mark U.A.M.E. Church for abatement of the building permit fee for an addition to the church. In that the request is in compliance with County Resolution No. 75-53, the Office of Planning and Zoning recommended approval of the request.

Commissioner Bailey moved, seconded by Commissioner Lancaster, to approve the waiver request as presented. Motion carried.

9) OIL/GAS LEASE

The County Administrator distributed a memorandum to the Board advising that he pursued the background of Catawba Energy, Inc., a firm negotiating with county landowners regarding oil/gas leases. He indicated that he met with Ron Deem, negotiator for Catawba on November 23, and recommended that the Commissioners sponsor a joint presentation by Maryland Geological authorities and by Exxon/Texaco. The Commissioners directed Mr. Cox to proceed to make arrangements for such a meeting.

PUBLIC SCHOOL CONSTRUCTION PROGRAM
RESOLUTION NO. 88-31

Present: Dr. William R. Burroughs, Jr., Interim Superintendent of School
James Marsh, Director, Fiscal and Administrative Services
Jerry Himmelheber, Coordinator of School Facilities

The referenced individuals appeared before the Commissioners to present and review the Board of Education Capital Improvement Program for Fiscal Year 1990-1995. Projects included in the Program are:

1. Dynard Elementary - Addition and Renovation
2. Great Mills High School - Addition (Phase II) (deferred)
3. Greenview Knolls Elementary School - Addition
4. Mechanicsville Elementary School - Classroom Relocation
5. Great Mills High School - Wall System Renovation
6. Leonardtown Elementary School - Roof Renovation (deferred)

Discussion ensued regarding classroom sizes, state funding formula, future classroom needs because of growth, desire for limited use of mobile units. In response to an inquiry from Commissioner Jarboe, Dr. Burroughs indicated that pre-Kindergarten is not a requirement but is a necessity.

During discussion Commissioner Loffler requested Dr. Burroughs to obtain information as to what other jurisdictions have pre-Kindergarten.

After discussion Commissioner Lancaster moved, seconded by Commissioner Jarboe, to approve and sign Resolution No. 88-31 - Board of Education Capital Improvement Program - Fiscal Year 1990-1995. Motion carried.

DEPARTMENT OF PUBLIC WORKS

Present: John Norris, Director

1) STREETS ADDED TO HIGHWAY MAINTENANCE SYSTEM

Mr. Norris distributed to the Commissioners a list of streets added to the County's Highway Maintenance System in 1988 totalling 6.80 miles.

2) ACCEPTANCE OF DEEDS
ROAD RESOLUTIONS
COUNTRY LAKES

Mr. Norris presented the following documents relative to Country Lakes:

◦ Deed dated November 8, 1988 by and between Country Lakes (by Benjamin H. Burroughs, Jr.), and the Board of County Commissioners accepting West Lakeland Drive and David Drive in Country Lakes, Section III, Fourth Election District, into the County Highway Maintenance System.

◦ Deed dated November 8, 1988 by and between Country Lakes (by Benjamin H. Burroughs, Jr.) and the Board of County Commissioners of St. Mary's County accepting the following streets in Country Lakes Subdivision into the County Highway Maintenance System: Anne Court, West Spicer Drive, Yowaiski Mill Road (which separates Section II and III).

◦ Road Resolution No. 88-24 posting the following streets at 25 miles per hour: Yowaiski Mill Road, West Spicer Drive, Anne Court.

◦ Road Resolution No. R88-25 designating the following as "Stop Streets:"

- Anne Court at its intersection with Yowaiski Mill Road
- West Spicer Drive at its intersection with Yowaiski Mill Road and both intersections with Anne Court.

◦ Road Resolution No. R88-26 posting West Lakeland Drive and David Court at 25 miles per hour.

◦ Road Resolution No. R88-27 designating the following as "Stop Streets:"

- West Lakeland Drive at its intersection with Yowaiski Mill Road
- David Court at its intersection with West Lakeland Drive and Tin Top School Road

Commissioner Lancaster moved, seconded by Commissioner Jarboe, to approve and authorize Commissioner Loffler to sign the referenced documents. Motion carried.

3) PUBLIC WORKS AGREEMENT
EAGLES GLEN

Mr. Norris presented a Public Works Agreement dated July 5, 1988 by and between Amber Meadows Joint Venture and St. Mary's County guaranteeing the completion of Barefoot Drive in EaglesGlen by October 1, 1989. The Agreement is backed by a Letter of Credit in the amount of \$137,600 with Insurance Company of North America.

Commissioner Bailey moved, seconded by Commissioner Lancaster, to approve and authorize Commissioner Loffler to sign the Agreement as presented. Motion carried.

4) PUBLIC WORKS AGREEMENT
TOSCA, PHASE I

Mr. Norris presented a Public Works Agreement dated October 26, 1988 by and between Interstate General Company of Delaware and St. Mary's County guaranteeing the completion of roads in Tosca Subdivision, Phase I, by October 1, 1989. The Agreement is backed by a Letter of Credit in the amount of \$156,000 with Maryland National Bank.

Commissioner Bailey moved, seconded by Commissioner Lancaster, to approve and authorize Commissioner Loffler to sign the Public Works Agreement as presented. Motion carried.

5) QUIT CLAIM DEED
RALPH I. AND ELIZABETH S. BASSFORD

As a follow up to last week's discussion, Mr. Norris requested the Board's approval of a Quit Claim Deed dated November 29, 1988 by and between the Board of County Commissioners of St. Mary's County and Ralph I. Bassford and Elizabeth S. Bassford conveying to the Bassfords a small portion of land at Fish Commission Pond, First Election District, which had not been included in the description in their Deed. The County has indicated no title or interest in the property.

Commissioner Jarboe moved, seconded by Commissioner Lancaster, to authorize Commissioner Loffler to sign the Quit Claim Deed as presented. Motion carried.

6) ORDINANCE NO. 88-32
ADOPTION OF SOLID WASTE ORDINANCE,
RULES AND REGULATIONS, AND TIPPING FEE SCHEDULE

As a follow up to the Board's approval of the Solid Waste Ordinance, Rules and Regulations, and Tipping Fee Schedule on November 15, 1988, Mr. Norris presented the Ordinance officially adopting those documents.

Commissioner Lancaster moved, seconded by Commissioner Jarboe, to approve and sign the referenced Ordinance. Motion carried.

7) SOLID WASTE SUPERVISOR

Mr. Norris reiterated a previous request for the Board's consideration of establishing a Solid Waste Supervisor position. He stated that he had provided the Commissioners with back-up information for this request and stated that the position is necessary to manage the operation of the landfill. Mr. Norris recommended that the position be at a Grade 10 level.

The Commissioners deferred a decision on this request and requested Mr. Norris to provide an organizational chart of the Department of Public Works indicating where this position would be placed.

OFFICE ON AGING
RETIRED SENIOR VOLUNTEER PROGRAM

Present: Gene Carter, Director, Office on Aging
Mary Ruth Horton, RSVP Coordinator
Jane Kostenko, Office on Aging

The referenced individuals appeared before the Commissioners to request approval to submit a request to ACTION for a three-month extension for the RSVP Grant. Mr. Carter explained that the grant is ordinarily renewed for a twelve-month period, and the three-month extension being requested would bring the grant into conformity with the County's budget period.

Ms. Horton explained the purpose of the RSVP program, which is to provide an opportunity for retired seniors, through skills and abilities learned through life, to volunteer their services.

After discussion, Commissioner Bailey moved, seconded by Commissioner Lancaster, to approve the three-month extension as requested. Motion carried.

B. HARRIS STERLING MEMORIAL

Present: Members of the Sterling family
Friends and Co-workers

The Commissioners held a brief memorial service for Harris Sterling, former Director of Finance who passed away July 1987, and unveiled his plaque.

EXECUTIVE SESSION

Present: Edward V. Cox, County Administrator

Commissioner Jarboe moved, seconded by Commissioner Lancaster, to meet in Executive Session to discuss matters of personnel. Motion carried. The Session was held from 12:15 p.m. to 12:45 p.m.

BOARD OF EDUCATION - MULTI-SERVICE COMMUNITY CENTER

Present: Dennis Nicholson, Deputy Director, Economic & Community Development

Mr. Nicholson appeared before the Commissioners to request approval of a Resolution to provide \$3,000 of Small Cities Community Development Block Grant (CDBG) funds for the Board of Education's Multi-Service Community Center for employment readiness and support services for ten low-income single parents.

Mr. Nicholson explained that the Community Center would be part of the Project Self-Sufficiency project funds received from HUD. No county funds are involved.

In conclusion the Commissioners requested back-up information on the project and agreed to make a decision at a later date.

FISCAL YEAR 1988 COUNTY AUDIT

Present: John Cox, Cox, Long and Colvin
Charles H. Wade, Director of Finance

Mr. John Cox presented and reviewed the Presentation of Financial Statements Summary for the Fiscal Year ending June 30, 1988. Included in the report are: Increase in financial position; Comparison of Actual to Budget - General Fund; Fund Balance Reserves and Designations - General Fund; General Long-Term Obligations; and Ratios of Improving Financial Condition. A copy of the report is on file in the Commissioners' Office.

CONSTRUCTION AND DEVELOPMENT USER FEE SCHEDULE

Present: Charles H. Wade, Director of Finance
Bruce Jennings, Cox, Long and Colvin

Mr. Jennings presented and reviewed the Construction and Development User Fee Schedule and described the service categories in the Office of Planning and Zoning and the Department of Public Works. He outlined administrative and technical evaluation coordination costs and proposed associated user fees.

Mr. Wade indicated that \$250,000 had been projected as revenues in this fiscal year and requested authority to proceed with the scheduling of the public hearing on December 20. The Commissioners agreed to have the hearing on December 20 at 7:00 p.m.

SEDIMENTATION AND EROSION CONTROL REVIEW FEE STRUCTURE

Present: Al Stewart, Soil Conservation District
James B. Beaven, Chairman, SCD

The referenced individuals appeared before the Commissioners to present proposed revised fees for Sedimentation and Erosion Control Plan, which would required a change in the St. Mary's County Sedimentation Control Ordinance No. 79-08 regarding fees. Mr. Stewart explained that an increase in fees is necessary to provide adequate revenues for clerical support, materials and office space.

In conclusion the Commissioners agreed to review the proposal and would at a later meeting set a date for a public hearing on the revised fees.

BRECK APARTMENTS - ST. ANDREWS CHURCH ROAD
APPEAL OF OFFICE OF PLANNING AND ZONING DECISION

Present: Robin Guyther, Acting Director, Office of Planning & Zoning
Pete Breck, developer
Steve King, Metropolitan Commission

Mr. Breck appeared before the Commissioners to appeal a decision by the Office of Planning and Zoning regarding denial of a Certificate of Occupancy for the Breck Apartments on St. Andrews Church Road. Mr. Breck pointed out that in June he received a Building Permit for four units and has complied with all agency requirements.

Mr. Guyther described the scenario leading to the denial, explaining that the property, containing 2.82 acres, is zoned R-2, which allows one dwelling per acre. Two dwellings per acre are permitted if the project is served by central water or sewer, which is not available on this property. Mr. Guyther indicated that the former Director had issued the building permit on June 16 without justification to allow four dwelling units. In response to a request from Mr. Gerred, the Metropolitan Commission forwarded a letter on June 17 indicating that the water system could be accepted in the future. Mr. Guyther advised that he had written to the Metropolitan Commission on June 28, indicating that if this project is not served by a public water system, the Office of Planning and Zoning will not be able to issue Certificates of Occupancy for four dwelling units. A copy of the letter to the Metropolitan Commissioner was sent to Mr. Breck, however, the Office of Planning and Zoning received no further communication from Mr. Breck until he requested the Certificate of Occupancy.

Mr. Densford noted that the problem arose from two different interpretations by two successive Directors of Planning and Zoning regarding the acceptance of water system. Mr. Guyther had questioned the validity of the issuance of the building permit; however, there was no further action by the county--there was no "Stop Work Order." Mr. Densford pointed out that Mr. Guyther's position is a valid one, that the intent of the Zoning Ordinance be upheld.

Commissioner Bailey indicated that it was his opinion that the County made a mistake the Certificate of Occupancy should be issued. He indicated that to avoid situations like this in the future, clear and concise rules should be in place regarding approval or disapprovals.

The County Administrator stated that a public official issued a building permit, which had not been rescinded, and there was no action to change the situation.

Mr. Loffler agreed that a mistake had been committed by the County and suggested that in the future a letter from the Metropolitan Commission should clearly state that the water system is accepted or it is not accepted.

After discussion Commissioner Bailey moved, seconded by Commissioner Jarboe that the Office of Planning and Zoning issue the Certificate of Occupancy for the Breck Apartments on St. Andrews Church Road with the stipulation that it is understood that Mr. Guyther was doing his job, but the permit had already been issued by the previous director, and, therefore, the issuance of the building permit must be recognized. Commissioner Lancaster voted against the motion. Motion carried three to one.

EXECUTIVE SESSION

Present: Edward V. Cox, County Administrator
Joseph Densford, Assistant County Attorney
James Haley, Procurement Officer

Commissioner Bailey moved, seconded by Commissioner Jarboe, to meet in Executive Session to discuss a matter of Property Disposition. Motion carried. The Session was held from 3:30 p.m. to 4:00 p.m.

7:00 P.M.

PUBLIC HEARING
ST. MARY'S COUNTY LIVABILITY CODE

Present: Dennis Nicholson, Deputy Director, Economic & Community Development
James Weber, Chief, Permits and Inspection
Mary Whetstine
Tom Shea, Town Administrator
Joseph Densford, Assistant County Attorney

The Commissioners conducted a public hearing on the adoption of a Livability Code for St. Mary's County as prescribed by Article 83B, Section 6-103 of the Annotated code of Maryland. The State of Maryland requires all counties as of January 1, 1989 to have on on record a Minimum Livability Code. The Code applies only to non-owner occupied residential structures and is created to protect the public health, safety and welfare.

Mr. Nicholson read the notice of public hearing, which had been appropriately published in The Tide newspaper, after which the meeting was opened for public comment.

Mr. Loffler pointed out that landlords should be encouraged to bring rental properties into compliance with this Code.

During discussion Mr. Weber indicated that he would draft recommendations for the Commissioners' consideration for the establishment of a Livability Appeals Board.

Toby Bernstein raised a question concerning "alternative plumbing" and "alternative water system."


After discussion the public hearing was closed. A decision will be made by the County Commissioners after a ten-day waiting period.

A tape of the hearing proceedings is on file in the Commissioners' Office.

ADJOURNMENT

The meeting adjourned at 7:50 p.m.

APPROVED,


Carl M. Loffler, Jr.
President